

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 4/23/2024
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SIRIUS XM RADIO INC.,	:	
	:	
Plaintiff,	:	1:21-cv-06963-GHW-SDA
	:	
-v-	:	<u>ORDER</u>
	:	
AURA MULTIMEDIA CORPORATION, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
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GREGORY H. WOODS, United States District Judge:		

On April 6, 2024, Magistrate Judge Stewart D. Aaron issued a Report and Recommendation (“R&R”) recommending that the Court enter judgment for Plaintiff against Defendants Aura Multimedia Corporation and Aura Multimedia Technologies Company LLC (the “Aura Defendants”). Dkt. No. 118. On April 27, 2022, the Court adopted Judge Aaron’s report and recommendation and granted Plaintiff’s motion for default judgment against the Aura Defendants, but deferred a determination of the damages and other relief to be awarded until the action was resolved as to the only other Defendant in the case, Clayton B. Burton, Jr., who proceeded *pro se* in this litigation. *See* Dkt. Nos. 61, 62. Plaintiff now having settled its claims against Mr. Burton, who has been voluntarily dismissed from this case, *see* Dkt. No. 114, Judge Aaron issued the R&R now before the Court recommending the appropriate remedies to be awarded to Plaintiff as a result of its default judgment against the Aura Defendants.

A district court reviewing a magistrate judge’s report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within fourteen days of receiving a copy of the report. *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). The Court reviews for clear error those parts of the report and recommendation to which

no party has timely objected. 28 U.S.C. § 636(b)(1)(A); *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008).

No objection to the R&R was submitted within the fourteen-day window. The Court has reviewed the R&R for clear error and finds none. *See Braunstein v. Barber*, No. 06 Civ. 5978 (CS) (GAY), 2009 WL 1542707, at *1 (S.D.N.Y. June 2, 2009) (explaining a “district court may adopt those portions of a report and recommendation to which no objections have been made, as long as no clear error is apparent from the face of the record”). The Court, therefore, accepts and adopts the R&R in its entirety.

Accordingly, for the reasons articulated in the R&R, the Court orders as follows:

- (1) Plaintiff is entitled to judgment against the Aura Defendants, Aura Multimedia Corporation and Aura Multimedia Technologies Company LLC, who shall be jointly and severally liable, in the following amounts:
 - a. \$259,299.21 in damages, with pre-judgment interest at the rate of nine percent per annum, pursuant to N.Y. C.P.L.R. § 5004, from July 8, 2020 through the date that judgment is entered;
 - b. \$500,000.00 in statutory damages, pursuant to 15 U.S.C. § 1117(c);
 - c. \$50.00 in statutory damages, pursuant to N.Y. Gen. Bus. Law § 349; and
 - d. post-judgment interest at the statutory rate pursuant to 28 U.S.C. § 1961(a).
- (2) Each of the Aura Defendants, Aura Multimedia Corporation and Aura Multimedia Technologies Company LLC, is permanently enjoined from using any of the following Plaintiff’s marks¹ without authorization:

¹ These are Plaintiff’s registered marks, as reflected in the certificates of registration submitted in support of Plaintiff’s motion for default judgment. *See* Dkt. No. 46-1 (Exhibit A to the Declaration of Dave Wasby).

SIRIUS

a. (USPTO Reg. No. 3,204,232)

SIRIUS

b. (USPTO Reg. No. 3,071,291)

SIRIUS

c. (USPTO Reg. No. 3,114,505)

SIRIUSXM

d. (USPTO Reg. No. 4,045,088)

((SiriusXm))

e. (USPTO Reg. No. 5,944,002)

((SiriusXm))
SATELLITE RADIO

f. (USPTO Reg. No. 4,199,434)

((SiriusXm))
SATELLITE RADIO

g. (USPTO Reg. No. 4,082,682)

- (3) Each of the Aura Defendants, Aura Multimedia Corporation and Aura Multimedia Technologies Company LLC, is permanently enjoined from holding themselves out as affiliated in any way with Plaintiff Sirius XM Radio, Inc.

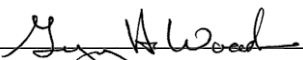
Counsel for Plaintiff is directed to serve this order on Defendants and file proof of service on the docket.

The Clerk of Court is directed to enter judgment for Plaintiff and against Defendants Aura Multimedia Corporation and Aura Multimedia Technologies Company LLC in the aggregate amount of: \$259,299.21, with pre-judgment interest at the rate of nine percent per annum from July 8, 2020

through the date of judgment, plus \$500,050.00. Post-judgment interest shall accrue on the unpaid amount of the judgment at the rate established by 28 U.S.C. § 1961(a). The Clerk of Court is directed to close this case.

SO ORDERED.

Dated: April 23, 2024
New York, New York



GREGORY H. WOODS
United States District Judge